



**Division of  
Human Rights**

NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

OMAR WILSON,

Complainant,

v.

NEW YORK SOCIETY FOR THE RELIEF OF THE  
RUPTURED AND CRIPPLED, MAINTAINING THE  
HOSPITAL FOR SPECIAL SURGERY,

Respondent.

DETERMINATION AND  
ORDER AFTER  
INVESTIGATION

Case No.  
10215036

Federal Charge No. 16GC200994

On 1/18/2022, Omar Wilson filed a verified complaint with the New York State Division of Human Rights ("Division") charging the above-named respondent with an unlawful discriminatory practice relating to employment because of creed in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is NO PROBABLE CAUSE to believe that the respondent has engaged in or is engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

Respondent, New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery, is a specialty hospital for orthopedics and rheumatology. Complainant, Omar Wilson, worked for Respondent as a Senior Implant Technician. Respondent permitted Complainant to work unvaccinated until religious exemptions were no longer allowed under applicable regulations. Complainant was terminated when he refused to become vaccinated.

The investigation established that Respondent's employees are subject to the NYS Department of Health's vaccine mandate for health care workers. The vaccine mandate for health care workers issued by the New York State Department of Health is found at 10 N.Y.C.R.R. § 2.61 (Aug. 26, 2021) ("Prevention of COVID-19 transmission by covered entities"). The Rule does not provide

for religious exemptions to the COVID-19 vaccine mandate. Enforcement of the mandate has been upheld by the federal Second Circuit Court of Appeals in *We The Patriots USA, Inc. v. Hochul*, 17 F.4th 266 (2d Cir. 2021) and 17 F.4th 368 (2d Cir. 2021). The U.S. Supreme Court on December 13, 2021, declined to overrule these Second Circuit opinions.

Respondent is not required by the New York State Human Rights Law to defy or oppose government regulations as an accommodation based on creed. The evidence does not support a conclusion that Complainant was unlawfully discriminated against by Respondent.

The complaint is therefore ordered dismissed and the file is closed.

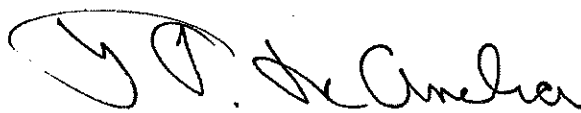
PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Your charge was also filed under Title VII of the Civil Rights Act of 1964. Enforcement of the aforementioned law(s) is the responsibility of the U.S. Equal Employment Opportunity Commission (EEOC). You have the right to request a review by EEOC of this action. To secure review, you must request it in writing, within 15 days of your receipt of this letter, by writing to EEOC, New York District Office, 33 Whitehall Street, 5th Floor, New York, New York 10004-2112. Otherwise, EEOC will generally adopt our action in your case.

Dated: June 17, 2022  
Binghamton, New York

STATE DIVISION OF HUMAN RIGHTS

By:



Victor P. DeAmelia  
Regional Director